

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

COTTONWOOD ENVIRONMENTAL
LAW CENTER,

Plaintiff,

v.

CH SP ACQUISITION LLC d/b/a
SPANISH PEAKS MOUNTAIN CLUB;
LONE MOUNTAIN LAND COMPANY,
Defendants.

CV-23-28-BU-BMM

ORDER

INTRODUCTION

Defendants CH SP Acquisition, LLC d/b/a Spanish Peaks Mountain Club and Lone Mountain Land Company, LLC (collectively “Defendants”) filed a motion for summary judgment on July 10, 2023. (Doc. 9.) Defendants filed a motion to stay discovery pending resolution of Defendants’ motion for summary judgment on July 21, 2023. (Doc. 15.) The Court conducted a motions hearing on August 31, 2023, in Butte, Montana. (Doc. 29.) Cottonwood Environmental Law Center (“Cottonwood”) filed its first amended complaint for declaratory and injunctive relief on September 20, 2023. (Doc. 33.) Defendants provided notice of supplemental authority on September 22, 2023. (Doc. 35.) Defendants filed an answer to Cottonwood’s first

amended complaint for declaratory and injunctive relief on October 2, 2023. (Doc. 37.)

DISCUSSION

An amended complaint supersedes the original complaint and renders it of no legal effect, unless the amended complaint incorporates by reference portions of the prior pleading. *Valadez-Lopez v. Chertoff*, 656 F.3d 851, 857 (9th Cir. 2011). The Court’s scheduling order provides that the parties may amend their pleadings or join parties on or before September 25, 2023. (Doc. 31.) Cottonwood filed its first amended complaint on September 20, 2023, before the Court’s pleading amendment deadline. (Doc. 33.) Cottonwood’s initial complaint has no legal effect. (*See* Doc. 1). Defendants’ motion for summary judgment (Doc. 9) and motion stay discovery pending resolution of Defendants’ motion for summary judgment (Doc. 15) relate back to Cottonwood’s initial complaint and are now moot.

Defendants cite to *Schlatter-Jones v. Gen. Tel. of Cal.*, 936 F.2d 435, 443 (9th Cir. 1991) (abrogated on other grounds by *Cramer v. Consol. Freightways, Inc.*, 255 F.3d 683 (9th Cir. 2001)), for the proposition that “an amended complaint has no impact on a pending motion for summary judgment.” (Doc. 35.) The Ninth Circuit in *Schlatter-Jones* determined that the California district court did not err when it denied the plaintiff’s motion for leave to amend her complaint more than a year after filing her complaint and after the completion of discovery. 936 F.2d at 443.

Schlacter-Jones proves distinguishable. Cottonwood filed its initial complaint on May 5, 2023, and the Court's deadline for amended pleadings was September 25, 2023, or approximately four months later. Defendants agreed that the parties had until September 25, 2023, to amend pleadings or join parties. (*See* Doc. 26.) The proceeding here is not in the same advanced stage that the proceedings in *Schlacter-Jones* were. Discovery in this case remains open until April 1, 2024. (*See id.*)

If Defendants wish to reassert their motion for summary judgment, they must refile their motion and advance arguments that relate to Cottonwood's first amended complaint. (*See* Doc. 33.)

ORDER

Accordingly, **IT IS ORDERED:**

1. Defendants' Motion for Summary Judgment (Doc. 9) is **DENIED** as moot.
2. Defendants' Motion for Stay of Discovery Pending Defendants' Motion for Summary Judgment (Doc. 15) is **DENIED** as moot.

DATED this 16th day of October, 2023.

A handwritten signature in blue ink, reading "Brian Morris".

Brian Morris, Chief District Judge
United States District Court